

## **REMARKS**

### **I. General Remarks**

Solely to advance prosecution, claims 7 and 20, 23, 25 and 26 have been canceled without prejudice or disclaimer.

### **II. Rejections Under 35 U.S.C. § 112, second paragraph**

Claim 7 stands rejected as being indefinite. While Applicants respectfully disagree with the Examiner's position, claim 7 has been canceled. Accordingly, this rejection is moot.

### **III. Rejections of the Claims Under 35 U.S.C. § 112, first paragraph**

Claim 20, 23, 25-26 stand rejected as not enabled. While Applicants respectfully disagree with the Examiner's position, these claims have been canceled. Accordingly, this rejection is moot.

### **IV. Remarks Regarding Provisional Double-Patenting Rejections**

Claims 1-5, 7, 20 23 and 25-28 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-4 and 8-20 of copending application no. 10/513,848. A terminal disclaimer was filed over the '848 application in Applicant's March 31, 2008 response to a non-final Office Action.

The Examiner notes that the terminal disclaimer was not approved because the attorney or agent is not of record. Applicants thank the Examiner for his attention to this detail. A Revocation of Power of Attorney With New Power of Attorney and Change of Correspondence has been filed today in connection with this application that formally acknowledges appointment of the practitioners of Customer Number 21003. Accordingly the undersigned is officially acknowledged as an attorney of record in this application.

A copy of the terminal disclaimer filed on March 31, 2008 is included herewith for the Office's convenience.

Given the claims that have been canceled solely to advance prosecution and the terminal disclaimer, a copy of which is included herewith, the last remaining rejection is a provisional double patenting rejection of claims 1-3, 5, 7, 19-26 over claims 1-4 and 8-20 of copending application no. 10/575,027.

The '027 Application was filed after the present application. Applicants request that this rejection be withdrawn pursuant to MPEP § 804.I.B.1 which provides:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

Accordingly, Applicants request that this rejection be withdrawn.

#### **V. No Waiver**

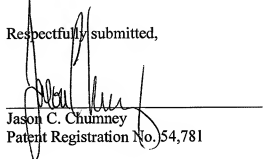
All of Applicants' arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the position taken by the Examiner. Other distinctions exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner's additional statements. The example distinctions discussed by Applicants are sufficient to overcome the Examiner's rejections.

#### **SUMMARY**

In light of the above remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicits timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record.

Applicants believe that there are no fees due in association with this filing of this Response, apart from the fee for filing a terminal disclaimer. However, should the Commissioner deem that any additional fees are due, including any fees for extensions of time, the Commissioner is authorized to debit Baker Botts L.L.P. Deposit Account No. 02-0383, Order Number 078503.0104, for any underpayment of fees that may be due in association with this filing.

Respectfully submitted,



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